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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,937	03/01/2004	Dominic M. Valdez	DMV-5	3229

7590

08/19/2005

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EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/790,937

Applicant(s)

VALDEZ ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the first three words of the Abstract are unnecessary and should be deleted. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: On page 14, line 10, "poly (methyl methacrylate)" is indefinite, as such indicates "methyl methacrylate" may or may not be in the composition, rendering the meaning "poly" alone indefinite..

Appropriate correction is required.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 2-5 and 7-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, line 2, "said collectible cards" lacks any antecedent basis, as no cards per se are defined as actually included in the claimed apparatus.

In each of claims 3-5, the phrase "at least one holder cap or card holder" should include --said-- between "one" and "holder" to indicate their antecedent basis. See also claims 14 and 15.

In claims 7 and 16, line 3 of each, "poly (methyl methacrylate)" is indefinite, as such indicates "polymethyl methacrylate" and "poly", the latter being indefinite. The parentheses should be around "poly")

In claim 8, line 3, "configured to allow grasping means" is indefinite, as it is unclear what "allow" defines structurally. See also claim 17.

In claim 10, line 3, "said riser" lacks antecedent basis for one riser, as the preceding line defines "at least one riser", although not in those words. The correct phraseology would be --each riser-- or --each said riser--. See also claim 19, line 3 and claims 11 and 20, line 1 of each.

In claim 11, line 2, "said grasping means" lacks clear definition from claim 8. See also claim 20.

In claim 12, line 1, "said riser surface" lacks antecedent basis. In line 2, "and/or" is alternative and thereby indefinite.

In claim 13, lines 6 and 10, "essentially" is indefinite, as the word could mean substantially or necessarily. In line 8, "said card" lacks antecedent basis for one card. In line 12, "said balanced collectible cards" has no antecedent basis, as "balance" as employed means "remainder".

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Levereth (2,591,271), Sterngart (3,061,136) and Wu (5,878,878) in view of Cahn (2,430,707). Levereth, Sterngart and Wu each disclose a display apparatus comprising a partitioned box having a first holder (Figures 5 and 11; 3; 10; respectively) with a first holder cap and a second holder (Figures 5 and 11; 4; 30) and a second holder cap, with the first holder cap including a latch or locking mechanism (frictional engagement; 16; at 19). Cahn discloses employing a partitioned box to hold cards. To employ the box of any one of Levereth, Sterngart and Wu for cards as disclosed by Cahn would have been obvious to discretely hold plural stacks of contents, as suggested by any one of Levereth, Sterngart and Wu.

As to claim 2, Levereth, Sterngart and Wu each disclose the second holder cap having a second latch or locking mechanism.

As to claim 7, to provide the structure of any one of Levereth, Sterngart and Wu from various plastics would have been obvious to make the structure less expensive. Levereth and Sterngart actually disclose plastic in general.

8. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Levereth, Sterngart and Wu in view of Cahn. The described method would have been an obvious manipulation and use of the structure of Levereth, Sterngart and Wu as modified by Cahn, as explained above.

As to claim 16, to provide the structure of any one of Levereth, Sterngart and Wu from various plastics would have been obvious to make the structure less expensive. Levereth and Sterngart actually disclose plastic in general.

9. Claims 3-4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 13 above, and further in view of Vihos (2003/0029764). Vihos discloses providing an article display of transparent material, the transparent material being of an ultraviolet filtering material to allow viewing of the cards but also preventing light damage to the contained articles by filtering ultraviolet rays (see page 2, section 0021). To modify the box of the previous combinations employing a transparent material of ultraviolet protective nature would have been obvious in view of the disclosure of Vihos to protect a viewable content from light damage.

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10. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 13 above, and further in view of Kofoed et al.

(3,351,209). Kofoed et al. disclose employing a color coded marking (18) to distinguish a holder from another holder. To employ color coding to distinguish similar holders in a group from one another would have been obvious in view of Kofoed et al. as a common manner of distinguishing different structures in a group.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Dickinson (6,737,974). Dickinson discloses a holder provided with a means for identification comprising an RF signal transmitter (chip). To include such a device in the holder of the prior art combination would have been obvious in order to provide a tracking means for keeping track of the location of the holder, as suggested by Dickinson.

12. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 13 above, and further in view of Faulstick et al..

Faulstick et al. disclose a card holder (Figure 2 or Figure 6) dimensioned to provide grasping means to allow picking a card from the holder. To modify the card holder of the prior art combination employing the structure of Faulstick et al. would have been obvious in order to fix the cards in place, yet allow grasping removal of the cards from the card holder, as suggested by Faulstick et al..

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13. Claims 9-10 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 8 and 17 above, and further in view of one of Spaulding (1,693,622) and Baker (2003/0230514). Spaulding and Baker each disclose card holders provided with multiple holder compartments, one holder compartment (above 15; 32) being sized for a single card. To modify the card holder of the prior art combination employing the structure of either one of Spaulding and Baker would have been obvious in order to provide a sample display location of one card, as suggested by either one of Spaulding and Baker.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

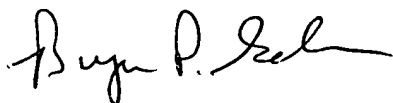
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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent than the last name "Gehman".

Bryon P. Gehman
Primary Examiner
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BPG